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Roundtable Discussion

On February 24 and 25, 1989, the *Cornell International Law Journal* and Cornell Law School hosted a symposium entitled “The United States-Japanese Trade Relationship: An Interdisciplinary Approach for the 1990s.” The Symposium concluded with a Roundtable Discussion. The following persons participated:

- * Victor Koschmann (Moderator): Acting Director, East Asia Studies Program, Cornell University;
- * Kent Calder: Associate Professor, Woodrow Wilson School of Public and International Affairs, Princeton University;
- * Harry First: Professor of Law, New York University Law School;
- * John Haley: Director, Henry M. Jackson School of International Studies, University of Washington;
- * Gilbert B. Kaplan: Partner, Morrison & Foerster, Washington, D.C.; formerly Acting Assistant Secretary for Import Administration, U.S. Department of Commerce;
- * Greg Mastel: Senior Legislative Assistant on Trade and Competitiveness, Senator Max Baucus (D-MT);
- * T.J. Pempel: Professor of Government, Cornell University;
- * Robert J. Smith: Goldwin Smith Professor of Anthropology, Cornell University;
- * Ira Wolf: Legislative Assistant, Senator John D. Rockefeller IV (D.-W.V.);
- * Shotaro Yachi: Economic Counselor, Embassy of Japan.

Prior to the Roundtable, the participants presented papers in smaller panel discussions. In preparation for the Roundtable the *Journal* asked participants to consider the following question:

The United States-Japanese Trade dispute has been variously described as “intractable,” “irreconcilable,” and “a permanent feature of the broader bilateral relationship.” Given the enormously complicated underpinnings of this dispute, what substantive steps should be taken toward improved relations?

The participants responded with wide-ranging suggestions, from a proposal for a major trade accord between the U.S. and Japan, to more modest suggestions such as increasing the allocation of government resources to the trade issue, creating an arbitration board for market access issues, and increasing antitrust enforcement. In addition to these specific proposals, several participants highlighted particular perspectives from which the underlying dispute should be viewed, ranging from economics to anthropology.

Much of the most heated debate centered on the question of whether the two nations should pursue a "process" or "results" oriented trade strategy. Precisely describing these two approaches is difficult, since each contains a range of degrees and nuances. To deliberately oversimplify, the more traditional "process" approach is founded on free market principles and emphasizes reliance on the multi-lateral process over bilateralism. More recent proposals for a "results" oriented approach call for more active governmental management of international trade, and frequently include suggestions for fixing numerical "targets" for the export-import levels of certain products.

A court stenographer recorded the entire Roundtable event. Remarks were edited by the participants and the *Journal* staff. The *Journal* added margin notes and footnotes to facilitate research.

PROFESSOR KOSCHMANN: I think it's entirely appropriate that we're ending up with a Roundtable discussion. The Roundtable discussion is a staple of Japanese intellectual life and of publishing as well. A Roundtable discussion often appears in Japanese magazines on economic and intellectual or political issues, and I think it's a credit to the organizers that they have taken seriously the need for an exchange of ideas.

We would like to focus on the problem of what is to be done. A question has been distributed to the participants ahead of time. Although we have already discussed aspects of what should be done in a variety of ways, I think the focal points of discussion have been the scope and nature of the problem. A number of differences have emerged in that regard, so let me just remind us of a few of them.

One is whether the problem itself is bilateral or multilateral. Is it feasible to focus just on the bilateral relationship, or from the beginning does one have to include a multilateral dimension? Also, is it just a trade problem or is it inherently a more complex, intersocietal problem, which includes all sorts of political, cultural and other aspects as well? And is it just a contemporary problem, or does it have to be seen in a historical context? Finally is it more political—more a matter of perceptions and partial interests within the countries involved—than an economic problem on either the macro or micro level?

These different conceptions of the problem, then, can provide the foundations for different approaches to a solution. It's been suggested that maybe we're doing all right now, so maybe the first question is: Is some kind of new departure towards a solution necessary or is it adequate to continue what's going on right now?

Is it feasible to stay in the multilateral realm? I believe Mr. Wallis,¹ among others, suggested that the Uruguay round might offer the only

1. Honorable W. Allen Wallis, Former Under Secretary of State for Economic Affairs, U.S. Department of State.

possible forum in which to find a solution.² Or does the issue inevitably have to be addressed on a bilateral level, either with some kind of trade agreement or with something else?

Is the macroeconomic level the most appropriate site for adjustments, or is a piecemeal approach at a lower level necessary? Do cultural factors constrain political and economic solutions? And is it necessary at some point to distinguish tractables from intractables; as I think Mr. Yachi has suggested;³ and, if so, what should be included in each category?

These are, I think, some of the questions that we would like to address, and as specifically as possible. I will ask the panelists to orient their remarks toward specific measures so that in the end we'll have results that are as concrete as possible.

I would like to begin by asking Mr. Mastel⁴ to say a little bit more, if he wishes, about Senator Baucus's proposal for a bilateral trade and economic agreement.⁵

MR. MASTEL: It seems to me that when you're talking about what we do about Japan, it's a very difficult discussion to have in a vacuum. There are a lot of factors that we have to consider. There are three that I want to point out in particular before I go specifically into discussing solutions.

[MACROECONOMIC BACKDROP]

First is that the macroeconomic environment has changed radically in the last year or few years; the dollar has depreciated against the yen by about 40 percent and that basically makes U.S. products a lot more competitive on the Japanese market, so some of the market performance problems that we've had in the past may begin to eliminate themselves—certainly not all of them, but I think there will be some positive effect.

[URUGUAY ROUND OF GATT]

The second observation I would make is that we are now in the middle of the Uruguay Round of multilateral trade negotiations. Since World War II certainly, or just after World War II, the GATT⁶ has been the centerpiece of U.S. trade policy. And you know it makes sense. It's

2. Wallis, *Economics, Foreign Policy, and the United States-Japanese Trade Dispute*, 22 CORNELL INT'L L.J. 381 (1989).

3. Shotaro Yachi, Economic Counselor, Embassy of Japan. See Yachi, *Beyond Trade Frictions: A New Horizon of United States-Japan Economic Relations*, 22 CORNELL INT'L L.J. 389 (1989).

4. Greg Mastel, Senior Legislative Assistance on Trade and Competitiveness, Senator Max Baucus.

5. M. Baucus, *A New Trade Strategy: The Case for Bilateral Agreements*, 22 CORNELL INT'L L.J. 1 (1989).

6. General Agreement on Trade and Tariffs, 61 Stat. (5), (6), T.I.A.S. No. 1700, 55 U.N.T.S. 194. For the current version binding on the United States, see 4 BASIC INSTRUMENTS AND SELECTED DOCUMENTS 1 (1969).

better to try to get an agreement with everyone in the world than to get an agreement with just one nation because the economic benefits theoretically are going to be larger.

The problem is that we've never been able to rely on the GATT system exclusively. Historically we've made a practice of negotiating with Japan in the GATT, but also negotiating with them bilaterally; and when it comes down to it, the most difficult, the most important negotiations were done on a bilateral basis. And I think that's going to continue.

There are some critical issues being discussed in the Uruguay Round concerning agriculture, trade in services, intellectual property, and some of those could have a positive impact on our problems with Japan, but you'll notice that nowhere on the list are the problems we talked about earlier: administrative guidance, distribution, any of the cultural barriers. In short, we can't look to the GATT round to be a complete solution. We're still going to need to have some kind of bilateral discussions with Japan.

[TRADE ACT AND SUPER 301]

The third thing to keep in mind is that the trade landscape isn't the same as it was last year. The U.S. passed the Omnibus Trade Act of 1988⁷ which is basically a major rewrite of U.S. Trade Law. The most important provision of the Act is probably what's called "Super 301."⁸

Super 301 is an attempt to sort of bundle all of a nation's unfair trade practices together and address them in one section, with the threat of U.S. retaliation if negotiations are not successful. And this provision was written for Japan. I mean, there may be some questions at this point about whether Japan will be targeted, but in all likelihood I think we have to assume that they're going to be a target of Super 301. And thus the question becomes not whether we're going to have bilateral talks with Japan but rather in what context we're going to have bilateral talks with Japan.

[NEED FOR MACROECONOMIC COORDINATION]

Now, it seems to me that we need a new trade strategy. We need an agreement, or perhaps the better term is a strategy, and it seems to me it has to have at least three prongs. The first is to continue to coordinate macroeconomic policy: We have to keep the dollar at a reasonable exchange rate against the yen; we have to control the U.S. budget deficit, and we have to stimulate Japanese consumer demand if we're going to have a hope of eliminating the deficit.

7. Omnibus Trade and Competitiveness Act of 1988, Pub. L. No. 100-418, 102 Stat. 1107, printed in 28 INT'L LEGAL MAT. 37 (Jan. 1989).

8. 1988 Trade Act, *supra* note 7, §§ 1301-10.

I would say our results through macroeconomic coordination have been encouraging. We've done a good job of coordinating economic policy with the Japanese through the G-7⁹ to change the dollar's exchange rate; we've had some good results, I think, in stimulating the Japanese economy. Certainly we can never expect a country to yield its sovereignty totally to any kind of economic coordination mechanism, but I think it is reasonable to expect that both countries can give trade balances greater weight in making macroeconomic decisions.

[NEED FOR NEW TRADE STRATEGY]

Secondly, I think we need to have a new trade strategy. As Senator Baucus has noted,¹⁰ it's hard to believe that anyone can call the current approach a success. We have a whole lot of negotiations on a whole lot of issues. The problem is that we really don't get to the bottom of it.

[NEED FOR TRADE TARGETS]

It may be possible in sectors like agriculture simply to continue to reach process-oriented agreements and to achieve results. In certain sectors the economic forces are so great that it's difficult for Japan to maintain its farmers in business even with heavy government intervention, but in a lot of sectors the comparative advantage differences are more subtle, and I think the only way to break into that sort of system is to have numerical targets as a guide for what we want to achieve. I'm not suggesting that we abandon the market system, but we should use targets as something to measure our success against in eliminating trade barriers.

[JAPAN AND FOREIGN ASSISTANCE]

Now, a third element that I would just suggest briefly would be for Japan to put an increasing amount of its current account surplus into foreign assistance, to solve things like the debt problem. I'll wrap it up there to give other people a chance to talk.

MR. CALDER:¹¹ I think there's a lot that's useful in what Mr. Mas-tel has just said. But I would want to relate that to a point of Mr. Yachi's and also to something that I had stressed in my remarks¹²—the distinction between tractables and intractables and the dangers in thinking broadly, generically, and cross sectorally.

9. The G-7 is a ministerial level economic coordination group consisting of the United States, Japan, West Germany, Britain, France, Canada, and Italy.

10. Baucus, *supra* note 5, at 3-7.

11. Kent Calder, Assistant Professor, Woodrow Wilson School of Public and International Affairs, Princeton University.

12. See Calder, *Domestic Political Transformation and Trans-Pacific Trade Relations*, 22 CORNELL INT'L L.J. 477 (1989).

[MOVE TOWARD BILATERALISM]

I think we're going to be moving increasingly toward bilateralism in U.S.-Japan relations, not because it's ideal but, because with 1992 and the Europeans moving that way, international competitive dynamics may force it.

[DANGER OF CARTELISTIC BEHAVIOR]

There is one caveat that I would make regarding bilateral agreements, particularly those that are results-oriented, and that is the real danger of cartelistic behavior. The U.S.-Japan high technology competition, while it has created tremendous imbalances, has also been a tremendous engine of innovation for the world as a whole. Perhaps because I come directly from Silicon Valley, I've seen both the costs and the benefits of this competition. I think one of the most dangerous things that we could possibly do is to stifle this engine of very dynamic high technology competition between our two nations. The world as a whole would lose tremendously. But as Mr. Mastel said, we do have to find some means of reversing our worsening trade situation in high technology. I would like to see that done through more domestic assistance to strategically crucial industries like semiconductors rather than through support for cartelistic behavior.

[HIGH TECH DOMESTIC SUPPORT ASSISTANCE]

MR. WOLF:¹³ I also agree with what Mr. Mastel said, although I have a couple of caveats. We all agree that multilateral trade negotiations are of great importance, but one example where it's irrelevant to Japan is intellectual property. The multilateral level of negotiations on intellectual property deals mainly with guaranteeing that Third World countries protect inventions, copyrights. Should we reach all our goals at the multilateral level on intellectual property, it does not help us at all in Japan. There are serious intellectual property problems in Japan experienced by American and other foreign high tech companies, and the solution can only be found on a bilateral basis. That's just one example among many where the multilateral process is inappropriate to the particular problems we have in Japan.

[RESULTS-ORIENTED NEGOTIATIONS]

There are different ways to define results-oriented negotiations. One way is through statistical measures. Another way is through a decision as to whether things are moving in the right direction or not. The telecommunications negotiations that we had with Japan several years ago and that, to some extent, are continuing, are an example of this.

13. Ira Wolf, Legislative Assistant, Senator John D. Rockefeller IV (D.-W.Va.).

This also relates to what Glen Fukushima¹⁴ discussed yesterday—the resources that the U.S. Government is willing to commit to our negotiations compared to the resources that the Japanese will use. Telecommunications is the only set of negotiations where the U.S. Government was willing to put in huge resources in people and money.

[U.S. NEED FOR MORE HUMAN RESOURCES]

Glen Fukushima is the only person at USTR dealing exclusively with Japan, yet in these negotiations, the Executive Branch drew on a number of agencies in a sustained way, using experts from the Federal Communications Commission, the National Telecommunications and Information Administration, the Department of Commerce, and elsewhere, and putting these people in Japan for a week, two weeks, as long as a month at a time.

We need to commit, in a sustained way, a corps of people dedicated to specific negotiations, steeping themselves in the issue, developing relationships with their counterparts in Japan, approaching the issue not just at the bureaucratic level with the appropriate ministries, but also dealing at the political level with the Liberal Democratic Party, approaching the press in a way that we have never done before, dealing with trade associations, which are usually ignored in trade negotiations but which are a critical part of the decision-making process.

[NEED FOR MONITORING IMPLEMENTATION]

Once these negotiations are “successful” on paper, the next step is monitoring implementation. This is as important as the actual negotiations. For a while in telecommunications we maintained a group to follow the implementation. Then we, as always, seem to have lost interest, and now there is a sort of malaise in improving our access to the telecommunications market in Japan because we have lost this sustained attention. With sustained attention to implementation you can tell whether there are results or not without having numerical goals at the end of the day.

[NATURE OF NEGOTIATIONS]

Finally it is worth noting that although we talk about trade negotiations, they are not really negotiations. Negotiations by definition require two parties, with demands on each other and each making concessions in order to reach an agreement. Glen Fukushima mentioned yesterday that at the U.S.-Japan Trade Committee meetings he often has as many as 38 items on his agenda. The Japanese generally have only three or four. They have few if any demands relating to market access

14. Glen S. Fukushima, Deputy Assistant U.S. Trade Representative for Japan and China, Office of the U.S. Trade Representative. See Fukushima, *United States-Japan Free Trade Area: A Skeptical View*, 22 CORNELL INT'L L.J. 455 (1989).

or trade policy. We are involved not in negotiations, but in discussions where the U.S. is the demander and the Japanese are simply the defender of the status quo. If you have nothing to trade off other than good will or a commitment not to retaliate, it makes the tactics of negotiations much more difficult than in other areas.

[CULTURAL MINDSET]

MR. HALEY:¹⁵ I'd like to go back several steps and suggest that much of what has been said thus far represents a particular way of dealing with problems. It reflects a mindset, a cultural mindset, that itself hinders solutions that may be at hand. I would like to go back to what Mr. Yachi had to say this morning. In his presentation, he suggested an approach that we should heed carefully. There were two aspects to what he said.¹⁶ Kent Calder has picked up on one; I would like to emphasize the other.

[TRACTABLE VERSUS INTRACTABLE PROBLEMS]

The first was that we must begin to separate intractable from tractable problems, problems we can solve and those we can't; the second was, very importantly, what does Japan seek? With those two points in mind, let me go back to the cultural distinctions between how we approach problems.

Thus far everyone has done what I suspect we are apt to do in almost all instances. We begin by asking: Is there a problem? We then define it: What is the problem? Next we assume there must be a solution and thus seek that special policy that solves or reduces the problem, turning to the two, three, or four government officials present, and begin to argue for what is inevitably a governmental or legal response. That is not the way the Japanese would approach the issue.¹⁷ I at least think that is not the approach Mr. Yachi has suggested.

Hopefully without reading too much into his comments, what I heard him say was there are some aspects of our environment over which we have little, if any, control. In our relationship with Japan there are aspects that are simply beyond solutions because they are outside the control of any single firm, industry, and certainly the government. What we must begin to understand, therefore, are the aspects of our relationship that are subject to dynamic change, which we can't control, and which we must therefore simply accept.

We must also appreciate the need to develop consensus in our relationship and to avoid coercive solutions, what Mr. Yachi sees as a coor-

15. John Haley, Professor of Law and East Asian Studies; Director, Henry M. Jackson School of International Studies, University of Washington.

16. S. Yachi, *supra* note 3.

17. For a detailed explanation of this position, see Haley, *Luck, Law, Culture and Trade: The Intractability of the United States-Japan Trade Conflict*, 22 CORNELL INT'L L.J. 403 (1989).

dination of perceptions and of images. In the process, we should attempt mutually to define what the problems and the issues are, delineating between those that are intractable and those that can be resolved jointly with a mutual better understanding of our interrelatedness. We should not demand Japan to do something, nor should Japan demand that we do something.

[COORDINATING GOALS]

Mr. Yachi also suggested an avenue of approach to Japan by identifying what Japan wants in our relationship. He said it many times: Japan's quest for an honored place. Rather than walking into negotiations with Japan and demanding 20 percent of their semiconductor market, or this, that, and the other, whether a target or whether a contract, we should accept the legitimacy of Japan's desire for an honored place in the world and emphasize how Japan gains the desired respect as we work together to achieve mutual goals and interests. We must start, of course, from a carefully developed consensus at home with respect to what we ultimately want, what our ultimate goals are, and how disparate interests and institutions can mutually work together in the process of defining, building and then mutually acting upon such consensus.

[FTA¹⁸ AS THE WRONG APPROACH]

MR. KAPLAN:¹⁹ I think that the proposals to negotiate an FTA with the Japanese, whatever the permutations, are not necessarily the way to go. I think to some extent that may be more of the same. We have had rather intensive negotiations under a series of rubrics since 1980.

I think there is a tremendous degree of scapegoating in the United States, in the business community and in the political community, of Japan. And certainly there are problems with Japan that have to be solved, but I think that what we have to do, in a sense, is regroup, define the problem, even though the task of this Roundtable is not to define the problem, and figure out the seven or eight different steps that need to be taken to resolve it.

I think Greg Mastel used the metaphor of a student about to take an exam that he had done no reading for and he felt very troubled. I think the metaphor that always comes to mind to me when we were negotiating trade agreements was a basketball team, and a basketball team that may be behind. The question was whether we were going to be able to regroup in the style of the old-fashioned Boston Celtics, somehow do all the things that needed to be done as a country or as an economy or as a

18. "Free Trade Agreement."

19. Gilbert Kaplan, Partner, Morrison & Foerster, Washington, D.C.; formerly Acting Assistant Secretary for Import Administration, U.S. Department of Commerce.

group of trade negotiators and get back into the game. It's not a simple kind of solution; obviously, you can't just say, well, we're going to go out and hire a great seven-foot-two center and that's going to solve the problem.

[CONSERVATIVE USE OF TARGETS]

There are many different steps which have to be taken and I think we as a country have to take all those steps. I would just outline very briefly, because this is a big issue, what steps I think ought to be taken. I don't think they include an FTA.

The steps I would recommend are first, that we adopt some market share targets, but that we do it very, very sparingly. I think it would make sense in areas like semiconductors, areas that I think are tractable, but for a variety of reasons have just become intractable. We have to be very careful about using market share targets because I think there are tremendous down sides to doing it. The down sides are not very different from the down sides of affirmative action or something like that. It can be counterproductive: it's not market oriented; it forces people to buy products they don't want to buy, can be very difficult; but I think in some areas it should be done very sparingly.

[DISPUTE SETTLEMENT MECHANISM]

Secondly, as I mentioned in my talk, I think we should go back to the Japanese in response to this general amorphous request they're making about a bilateral dispute settlement mechanism, and talk about a very specific dispute settlement mechanism related to market access issues. This would not be in lieu of market share targets in some areas, but in addition to it and conceivably used in other areas. I think there should be a very quick arbitration system set up to deal with market access problems.²⁰ There should be an agreement between the United States and Japan that on market share problems like soda ash there would be an arbitration system where we could get together and try to reach a solution relatively quickly. I think the system ought to be tried on a relatively short-term trial basis, two years, three years, in terms of setting up the system. The arbitrations themselves should take place more quickly. We ought to see whether it works.

[MAKING TRADE A PRIORITY]

There's been a subtheme running through the conference, I think, that we need to intensify our efforts with respect to trade. In other words, we need as a country to refocus our priorities, perhaps, away from classical "foreign policy," away from defense policy, away from tax

20. For a more detailed explanation of Mr. Kaplan's proposal, see Kaplan, *The Use of Arbitration to Resolve Market Access Disputes*, 22 CORNELL INT'L L.J. 469 (1989).

policy, away from other things and start looking at trade. I think that's clearly correct. I think that we have, as a government and as a country, not cared enough about the trade issue, not cared enough about our position internationally. We're basically a small island nation—not small, but an island nation by virtue of geography. Europe is way over there and Japan is way over there; Korea is way over there. Obviously, we're no longer an island nation. We have to look at the trade issue as seriously as we looked at the other issues in our country over the last 10 or 20 years.

[BUDGET DEFICIT]

I think we have to solve the budget deficit. I don't think there's anyone on this panel that doesn't believe that would be the biggest single factor in terms of turning around our trade picture. That simply has to be solved. And I think the Congress which writes the budget should solve that problem and then all the other problems would be taken care of. Just two other things quickly.

[EXPORT FINANCING]

I think we ought to provide export financing for United States business equivalent to whatever any other country will do. In other words, we ought to match export financing dollar for dollar or yen for yen with any other foreign country. I think that's tremendously important and when companies are actually competing for sales, over and over again they will tell you we could have gotten the sale but the—and put in Japanese, Brazilians, Germans, French—provided export financing which we could not match.

[INTENSIFICATION OF BUSINESS EFFORTS]

Finally, I think this is not all a government problem. There has to be a major intensification in the business community, too, with respect to getting into foreign markets. The business sector will have to get into foreign markets. Companies like Hewlett-Packard know that. They're already very successful internationally.

The question for other companies is will they wait until they have lost a great deal of market share in the United States and they're really going under before they realize that they have to be able to compete internationally, or will they get out in front of the curve. In other words, will they start right now investing in the long term in foreign markets and will they put the kind of effort and money into that that is necessary to be successful?

One way or another they're going to have to do it. American companies will have to do it. I hope they do it now and not wait for 15 years until it will get harder and they'll be even further behind the curve. They have to intensify their efforts and really go out there. That will

probably be more important or as important as anything the U.S. Government can do.

So that is the sort of system that I would think ought to be put into place to turn this problem around.

[FUTURE POLICY]

MR. YACHI:²¹ With regard to what should be done in the future, Mr. Mastel mentioned three fields, one is macroeconomic policy coordination and the second is multilateral trade negotiations, what we call Uruguay Round, and the third is a bilateral approach. Now, I do not have an objection to the former two approaches or fields, the macroeconomic policy and multilateral trade negotiations, but I have a reservation about the third approach—the bilateral negotiations or bilateral approach. Mr. Mastel mentioned Super 301,²² but I don't think that Super 301 can be an answer to improving the bilateral trade relationship.

[BILATERAL TRADE HISTORY]

Let me say a little bit about our bilateral trade history after the war. From World War II until 1964, the United States had been showing a substantial trade surplus *vis-à-vis* Japan. The year 1965 was a turning point from which Japan has been showing the trade surplus *vis-à-vis* the United States. And up until now we have taken a lot of measures to open up our markets, but still the trend remains in favor of Japan in terms of trade balance.

[YEN-DOLLAR EXCHANGE RATES]

As to the exchange rate between the yen and dollar, the Japanese yen was appreciated by almost 50 percent since the Plaza Agreement of September, 1985. At that time one dollar equaled approximately 250 yen; right now one dollar equals approximately 125 yen. Although we have that kind of a very favorable environment for the promotion of exports to Japan, we have not yet seen very encouraging signs in the area of bilateral trade.

[RECOMMENDED U.S. ACTION]

What we have to do right now is, on the part of the United States, make serious efforts to reduce the budget deficit and also take measures to encourage savings and capital investment. And the United States business group should promote further their sales efforts. Many American companies have succeeded in the Japanese market: The shaving razor company Schick is occupying a 70 percent share of the Japanese

21. See *supra* note 3.

22. See *supra* note 8.

safety razor market; Polaroid occupies 70 percent of our instant photography market share; Coca-Cola occupies 62 percent of the soft drinks market in Japan; Johnson & Johnson, 28 percent; and other markets—IBM in computers, 27 percent; DelMonte, the tomato juice company, 23 percent, and so on.

[RECOMMENDED JAPANESE ACTIONS]

So, excellent American companies are enjoying their great share in Japan. Now, on the part of Japan, I think we should transform our basic economic structure from an export-oriented economy to a domestic-demand-lead economy, and during the past two or three years our economy has experienced great transformation in this direction, which was appreciated by the Western Summit countries, the G-7²³ and so on. Japan is also now promoting the so-called “internationalization”—which seeks to open up more of our minds to the outside world, to further open our markets; I think this internationalization movement should be strengthened and enhanced even further.

[FREE TRADE AGREEMENT]

Let me say a few words about FTA, Free Trade Agreement. Right now, I don't think that the FTA is a feasible idea for the two countries because of its potential impact on the world economy. If the U.S. and Japan—the first and second largest economies in the world—combined, it would have a great impact on the world economy. Asian countries, particularly Asian NIEs,²⁴ would not welcome a U.S.-Japan FTA because it may become a huge trade group which is exclusive against those Asian NIEs and ASEAN²⁵ countries.

But what I'd like to say about the FTA is that it can be seen as the ideal for the future—perhaps to be realized ten years down the road, but that in the short run, we should make further efforts to open up our markets, try to reduce any kind of barriers to our trade, and cooperate in macroeconomic policy coordination and multilateral trade negotiations.

[TRADE DEFICIT ORIGINS]

MR. PEMPEL:²⁶ I'd like to pick up on one important thing that we've sort of lost sight of, and that is the fact that in any effort to deal with the bilateral trade balance we have to go back to that critical date that Mr. Yachi was talking about—1965. That year represented a turning point at which the U.S. ceased to be an exporter of goods to Japan and became an importer from Japan. That event and the subsequent

23. See *supra* note 9.

24. “Newly Industrialized Economies.”

25. ASEAN, the Association of South-East Asian Nations, includes Brunei, Indonesia, Malaysia, the Philippines, Singapore and Thailand.

26. T.J. Pempel, Professor of Government, Cornell University.

occurrence of the United States running a trade deficit with virtually every major region of the world, not just Japan but Latin America, Africa, the Middle East, *et cetera*, hinges, it seems to me, on the efforts by the Johnson administration to run the Vietnam war on a credit card.

[U.S. FOCUS ON MILITARY INDUSTRIES]

The United States has gone through some real ebbs and flows since that time period, but it seems to me that one of the fundamental directions that was set was the ever escalating rate of spending for the military. It became very clear, certainly by '65, to electronics goods manufacturers, to the aerospace industry, to a good number of computer companies and certainly to engineers graduating from American universities, that there was a lot more money to be made by servicing the American defense establishment than there was in serving the world of consumers in electronics goods, aerospace, and what have you.

["MILITARY KEYNESIANISM"]

And I think that if we're going to take a look at some of the shifts in the economy, we have to keep in mind causes of the current budget deficit, which rest very heavily on a massive expansion in defense and the fact that the United States has been building a kind of military keynesianism over a long period of time, expecting that somehow putting more money into the military is going to allow the United States economy to do better rather than to do worse. And I think the consequences of that policy are only now beginning to be felt, and they're beginning to be felt in the fact that we no longer have the kind of infrastructure that allows the United States to be as competitive in civilian export goods as we once were. The United States does very well exporting military aircraft to the rest of the world. Our only major competitors there are the French and British. And the unfortunate part of that to the United States is that we've let our bridges, our roads, our educational system, our crime rate, our drug problem, our engineering graduation rates, and a whole variety of other things to be chopped out from underneath us. Regardless of what the actual causes of those specific problems are, it seems to me there's got to be a fundamental redress in America's spending policies and spending priorities.

It seems to me that Gorbachev in the Soviet Union is beginning to realize the mistakes of the Soviet approach to economics and is looking forward to cutting back Soviet expenditures on the military because of the consequences that has had for the civilian economy. The United States is now in a position politically and strategically where it can begin to do the same. And if it makes some adjustments in that direction, and if engineers coming out of major schools in the United States realize that there's money to be made in the civilian sector as well as the military sector, and if the United States has an infrastructure supportive of well-trained individuals going into civilian technology, manufacturing

and the like, then we're going to be in a much better position to solve the trade problems overall than we are trying to bang down the door of Japan (a country that seems to have its infrastructure very well in place), and hence be much more capable of competing world-wide than we've allowed ourselves to become.²⁷

MR. FIRST:²⁸ It's the web-less seam, it goes on forever. All those things seem to be quite right. I was thinking of the amount of capital we now allocate to the takeover business, so I guess depending on where you're looking at it you can see different things.

[INADVISABILITY OF MARKET SHARE QUOTAS]

I would just like to make a few comments. In fact, getting back to what Kent Calder said at the beginning, I would agree with his caveats, or particularly the caveat relating to the inadvisability of market share quotas, and with what Gil Kaplan said, except I'd like to go a step further and say we really shouldn't do it at all. It seems to me this is a very bad step for the U.S. to take as a negotiating tactic, although it seems to offer some obvious short-term benefit.

I'm concerned frankly not so much about Japan, but about the U.S. and the spillover effect that it will inevitably have, I think, on policy that we adopt in the U.S. towards our own domestic economy. It doesn't surprise me, frankly, that business is supporting this. I think in their heart of hearts, U.S. business firms would be happy with guaranteed shares of Japanese markets in the various areas. They could, just sort of live a rather easier life.

In a number of our trade agreements those things just don't go one way, and we've seen that in certain important areas we've been willing to accept guaranteed market shares of *our* markets. I can't speak for the psyche of Japanese managers, whether they're happy with whatever percentage share of the automobile industry they have. But I think that's a dangerous way to go. I keep thinking that firms that don't want affirmative action in the workplace, want it the marketplace; it leads me to be a little concerned.

[NEGOTIATIONS TIME FRAME]

The second point concerns the issue of what form should we take in our negotiations—macro, micro, sector specific? Despite what I said yesterday about slow progress in five years, there is some progress. We could perhaps accuse ourselves of the same thing that we accuse business people of, which is having too short of a time frame and that maybe

27. For a more detailed description of Mr. Pempel's views, see Pempel, *The Trade Imbalance Is Not the Problem*, 22 CORNELL INT'L L.J. 435 (1989).

28. Harry First, Professor of Law, New York University School of Law.

one thing is to slug it out a little longer or a lot longer in the trenches of different sectors that seem to be a particular problem.

[DEFINING "MARKET PROBLEMS"]

The third aspect of what I'd like to respond to, I guess, is in defining the problem, and I'd like us to look, more frankly, at what market problems actually are. Not that semiconductor prices are too low. That's a manifestation of a problem, but it's not the problem. Not that our shares in a certain market in Japan are too low. That strikes me as a manifestation of a problem.

[ANTITRUST LAW AS BEST REMEDY]

We have to look for what's causing that. It's not always easy to find out, but I think to some extent it's private cartels operating in Japan, not that we're free of cartel practices in the U.S. But I would suggest, to sound a theme, perhaps a theme I know, that we don't need a new arbitration process like Gil Kaplan was suggesting for market access; there is a law in Japan for market access against private cartel action. Maybe we should press Japan to enforce it more and maybe we should press our own government to enforce our own market access laws, the antitrust laws, against cartel practices by Japanese firms who target U.S. markets, or against U.S. firms who act to exclude foreign firms, which does happen as well. So, I'd like to see that across the board as a structural way of trying to get us to the result that we really ought to be getting to, which is competitively-structured markets, that the push of competition—not quotas—is going to bring us those new products that none of us can predict today, that people couldn't have predicted 10 years ago. That creative destruction, in the end, is going to get us all the advancement we need, but not quotas.²⁹

[THE ROLE OF CULTURE]

MR. SMITH:³⁰ I feel obliged to re-raise the flag of culture.³¹ I've noticed not just in the context of this conference but in general a tendency, if anybody bothers to talk about culture at all, to imply that it's something they've got and we don't. Furthermore, culture is often portrayed as a barrier that they raise and we have to get them to remove. We have a culture, too. Some of the comments this afternoon have touched on that, but I don't think in any very profound way. Let me try to pick up on several issues that have come up over the three panel ses-

29. For a more detailed description of Mr. First's views, see First, *The View from 1984: What Have We Learned in Five Years?*, 22 CORNELL INT'L L.J. 509 (1989).

30. Robert J. Smith, Goldwin Smith Professor of Anthropology, Cornell University.

31. See Smith, *Culture as Explanation: Neither All Nor Nothing*, 22 CORNELL INT'L L.J. 425 (1989).

sions and this Roundtable. Allen Wallis last night referred to practices or institutions encrusted with tradition.³² The obvious message was that we must chip off the encrustation and move those institutions into the modern world. I suggest that if we chip off the encrustation, we could find there is nothing at the center.

What the cultural approach requires is that you always have to try to keep in mind why you're saying what you're saying, why you're taking the position you're taking, but more important, why whoever it is you're arguing with or discussing the issues with is taking the position that they do. Let me give you an example. There was a halcyon day (from the American point of view) when the United States was buying up Canada. An American friend of mine who worked in Montreal remarked that she was going to give up her job and go into the newspaper business simply to write headlines about U.S.-Canadian trade relations. She had become so irritated, she said, because the headline invariably read "Americans buying up supermarket chain," and never read "Canadians selling out supermarket chain."

[NEED FOR LANGUAGE TRAINING]

There are so many things about our relationship which has been so intimate in so many different ways for so very long that I think we've neglected to check back from time to time and remember exactly where we've been and how far we've come. We have made no advance in one respect. Were this conference and Roundtable held in Tokyo, sponsored by a Japanese university, with all Japanese participants, I dare say the representative from the American embassy would not participate in Japanese. In that regard we're not getting anywhere. Years ago Professor Eleanor Jorden of Cornell was called to Washington to a meeting with a couple of people in the White House. They offered a suggestion about how we might begin to adjust and correct for our inability in the language area. They had a proposal that there be established in the United States a program that would offer six months of Japanese language training to 10,000 trainees who would then qualify for admission to Japanese universities. She assumed that she had misheard them or that her English was failing and asked them to repeat the proposal. Of course, nothing ever came of it.

[TRANSCENDING SYMBOLICS]

But I think there's a much more fundamental issue. It really does behoove any person in the United States, any American of good will, to try to do something about the symbolics of this situation, an issue that was raised this morning during the panel discussion. When we say the Japanese are buying up real estate in the United States, and when Andy Rooney on 60 Minutes can actually do a little Japan-bashing on just that

32. Wallis, *supra* note 2.

theme, it is a very dangerous situation. The figures are not put in perspective; the recency of the Japanese investment as opposed to British and Dutch investment, *et cetera*, is not emphasized. We talk about Japan's free ride on defense, and we talked about burden sharing, which Mr. Yachi very appropriately suggested we stop talking about.³³ We are permitting the tone of this discourse to run wild in this country.

[FUTURE SECURITY IMPLICATIONS]

But there's a more important point altogether. This is the end of the '80s. Is there anyone at this table or in this room who imagined for a minute at the end of the '70s what the '80s have turned out to look like *vis-à-vis* relations between our country and many other countries in the world? I think not.

This touches on the issue of security, which keeps intruding into our discussion of trade relations. Suppose for a moment that by the end of the '90s the Japanese have come to what seems to me a perfectly possible, plausible conclusion that the security issue is dead; who would imagine that any other power would choose to challenge Japan's sovereignty militarily in the 1990s? I for one find the notion inconceivable. Suppose by the end of the 1990s a formula that a friend and I worked out in New York over this last weekend had come to fruition. I said, "Well, the United States and the Soviet Union have bankrupted each other in an arms race, the Japanese are at the moment bailing us out, who's going to bail out the Soviet Union?" He said, "West Germany, of course. Because they cannot afford chaos to their east." I think that's an absolutely plausible prediction. My Japanese business friends always tell me that they are astonished by the inevitability in talking with Americans, that the Americans will extrapolate from the present into the distant future, when we should know that that's a very culturally determined thing to do, and it is a very dangerous thing to do in the rapidly shifting international context that we live in.

[U.S. PRODUCTION IN JAPAN]

MR. MASTEL: I just wanted to make three quick observations that struck me listening to this discussion. The first is in reference to my good friend Mr. Yachi's impressive list of American companies that have done very well in Japan: Polaroid, IBM, Coca-Cola. And to that I will add a few like Honeywell; certainly there have been some U.S. businesses that have done well in Japan.

Unfortunately, if you look at those businesses, most of their production is based in Japan, not in the U.S. The problem is that Americans are not satisfied with simply having products that have American names selling in Japan. What we're looking for are American products *manufactured in America* that are sold in Japan. The requirement for cracking the

33. See Yachi, *supra* note 3, at —.

Japanese market should not be basing your production facilities in Japan. That's really the central theme.

[BROADENING DEFINITION OF NATIONAL SECURITY]

The second thing is we've been talking about national security here and how that has to play a role in our relations with Japan. Certainly, that's true. I think the problem is that we define national security far too narrowly and certainly in military terms. In order to continue to be a great nation, to be a military power, we have to have a thriving economy. If we allow our economic strength to be undermined by a trade deficit and poor economic policies, we eventually will not be able to export our military strength. I think economic security is a fundamental part of our national economy. We should never try to make a dichotomy. These are elements of the same issue, just a few years removed.

[NEED FOR TRADE TARGETS]

The third observation I would make is about the topic of targets which has been tossed about here a great deal.* I guess I would summarize targets as the worst possible approach to trade except for every other possible approach. Targets certainly should be a last option. And they are a last option.

[TARGETS VERSUS PROCESS APPROACH]

We've tried to get process-oriented solutions to Japanese trade problems for what, 20 years, 25 years? The problem is that it hasn't worked and we're left with no other alternative. It's been demonstrated time and time again in dispute after dispute that the American approach of trying for process normally doesn't work, and so we have to have some alternative—or we have to be able to live with the trade deficit. And I don't think we can live with the trade deficit.

There were two examples used by speakers yesterday to compare the managed trade approach to the free trade approach: semiconductors were used as an example of managed trade, with the conclusion that managed trade is generally a bad idea; and soda ash was used as an example of the free trade solution, with the conclusion that that's the direction we should go in.

From my experience with these two industries, I think they couldn't disagree more. The semiconductor industry, although not happy with the Japanese enforcement of the market access provisions, thinks the agreement is a good one and sees it as the only way to break into the Japanese market after years of trying process-oriented solutions. It is the only measure that has demonstrated any success. The soda ash people are still held to less than 20 percent of the Japanese soda ash market even though their costs are 50 percent below Japanese producers. In

other words, the process-oriented approach has not worked in that example. And I think the industry's attitude demonstrates this.

[CONSISTENCY REGARDING MARKET INTEGRATION]

MR. HALEY: I have to respond. When you say that Honeywell Japan cannot be counted as a U.S. product but Nissan Tennessee can't be counted as a U.S. product either, I have problems. Either we accept that we are becoming integrated and that it doesn't make a difference whether Honeywell as a U.S. firm is manufacturing in Japan or whether Nissan as a Japanese firm is manufacturing in Tennessee, or at least be consistent in treating a Nissan truck manufactured in the U.S. as a U.S. product and a Honeywell computer manufactured in Japan as a Japanese product. There has to be some consistency.

[TRADE DEFICIT NOT WORST PROBLEM]

Nor am I persuaded that the trade deficit is our most critical problem. How large is our current trade deficit in historical or comparative terms? The republic has withstood, I suspect, worse deficits without great difficulty, and with trading partners like Great Britain, with whom we have managed to maintain reasonably good relationships. Are we really concerned with the deficit or rather simply with what consumers may prefer in each others' markets? A response that at some point down the road disaster will lower the standard of living, and therefore something now has to be done is not persuasive. I can think of many worse scenarios.

[NEED TRADE WITH JAPAN]

One is for us to have very little trade with Japan or for our bilateral trade to recede to the level it was 10, 15, or 20 years ago. Were that to happen we would both be much worse off. Or what if Japan decided not to buy our T-bills, but rather decided to bail out the Soviet Union and started to invest there? In short, there are worse problems.

[TREND TOWARD ECONOMIC INTEGRATION]

MR. PEMPEL: Just very briefly following up on the point that John Haley made. I think one of the other issues that we have to keep in mind is the fact that not only are Japanese companies investing in the U.S. and U.S. companies investing in Japan, each of which changes the notion of a trade balance or imbalance, but we have to recognize that more and more we're seeing the integration of a Japanese parent company with an American company and vice versa.

GM/Toyota in California is one such joint manufacturing operation, Chrysler and Mitsubishi Colt, Ford and Mazda are others. The auto industry is breaking, it seems to me, no longer along U.S. versus

Japanese versus presumably Korean lines, but we're beginning to see the cross-national integration of firms that's going to eventually pit a GM/Toyota complex against a Ford/Mazda complex, *et cetera*.

The same thing is happening in the computer industry. It's likely to happen in numerous others. And I think the continual focus on what you put on a ship or what you put on a plane and sail or fly to another country is at best a very, very partial component of a much more complicated, dynamic, and integrated economic relationship. To focus exclusively on what gets on the plane and the ship and which direction the cargo is transported is to lose sight of that much broader problem.³⁴

[NEED FOR SECTORAL ANALYSIS]

MR. CALDER: I think T.J. Pempel has a point that's right at the heart of this whole discussion, but hasn't been highlighted enough: What we have here are two nations with different political systems and interest group structures, that are becoming one economy. This emerging reality inevitably forces upon us a broad range of policy coordination issues. The fundamental issue that we really have to look at goes far beyond trade. It goes to the tax policies of individual nations.

Obviously, the trade policies, the government finance policies, the tax policies, and the defense policies of nations have competitive consequences in an interdependent global economy, which brings me to one concrete proposal: the creation of sector-specific policy coordination groups in the two countries, composed of both private-sector representatives and government officials in the two nations. It is important to involve economists as well as politically sensitive analysts in both nations, to look at divergences in policy with regard to key sectors and to begin to think about how policies can be synchronized. I would say tax policies probably are the most fundamental of these areas for coordination.

I do disagree with targets. It seems to me that what we should be talking about, certainly for the long run, is policy coordination—sector-specific policy coordination rather than specific targets.

[IMPORTANCE OF RESULTS VERSUS PROCESS DEBATE]

MR. WOLF: I'm a little picture, short-run person, and if we can't get past the short run, there's not going to be a long run. The short run's getting bad *vis-à-vis* U.S.-Japan relations. The original question for this two-hour session was what can be done to improve relations, and I think it is worth talking for a few minutes about results versus process because this is going to become a major issue of debate. Recent reports have focused on this, and anyone who's interested in this should

34. For a more detailed description of this view, see Pempel, *supra* note 27, at —.

read Clyde Prestowitz's book *Trading Places*³⁵ because he is an intellectual father of this concept. I agree there is a danger with the specific dollar figure, results oriented concept.

[IMPORTANCE OF TRADE DEFICIT]

To improve relations right now, there's nothing more important than the bilateral trade deficit. There are other serious bilateral and multilateral problems that relate to the U.S.-Japan relationship, but the trade problem right now is the most important, the most emotional, and the one that is getting the most serious attention in Washington.

[SODA ASH EXAMPLE]

Part of the solution to this relates to resources and follow-up. Take the soda ash issue that's been mentioned half a dozen times during this conference, where we are now stuck at 20 percent of the market. We believe that, by all measures, we should have a far greater share of this market. We sell it cheaper. It is an undifferentiated product, so quality is not an issue. We have done very little in the last five years to follow up on this. We haven't pursued it. We put considerable resources into this issue in the 1980s and then we virtually dropped it. Thus why should Japan, given everything we know about decision-making there, do anything about this voluntarily?

[U.S. FAILURE TO COMMIT GOVERNMENT RESOURCES]

If the U.S. does not maintain an interest in this specific trade problem to the end—to the point of sale—why should the Japanese be the ones to take the initiative? We are stopping at the wrong time, not putting in the resources, people and commitment at the higher levels of the U.S. Government that are necessary.

[MUTUAL INTERESTS]

The United States still has tremendous leverage over Japan. Japan has tremendous leverage over the United States. Japan has not used its leverage thus far, and we have not used ours. I would contend there is plenty of room for us to use that leverage in a positive direction to resolve an issue that is just as much in Japan's interests to resolve as it is ours. Japan would like to have the trade problems resolved; they're willing to bear certain costs to have that problem resolved. It does not serve Japan's national interest to have the emotional debate we see now in the United States, to have these frictions, but Japan is unable to take the initiative and the U.S. has been unwilling to take the sustained initiative that's necessary.

35. C. PRESTOWITZ, *TRADING PLACES: HOW WE ALLOWED JAPAN TO TAKE THE LEAD* (1988).

[U.S. COMPETITIVENESS]

MR. KAPLAN: Well, I would begin by saying all is not lost. I think sometimes you listen to these discussions about Japan and about U.S. industry and you have this feeling that, you know, we are roughly competitive with some of the very poor economies of sub-Saharan Africa and who knows how we're ever going to get back and that's just simply not the case. And I think it's very important to keep that in mind. We have certainly the supreme world class agricultural industry, construction industry, I would argue computer industry and I think most Japanese would agree, medical and pharmaceutical, biotechnology, housing, the list goes on and on and on. We don't like to compete. We don't like to have to sit down and realize that it's not 1965 where for whatever reason we were absolutely supreme, both militarily and in terms of the growth rate of our economy, that there are other people who are catching up and that was really inevitable.

It's not an all or nothing sort of situation, though, and the industries are going to have to keep on competing and governments are going to have to take steps to make sure trade is focused on.

[MANAGED TRADE]

In a way what we're saying is everything else hasn't worked all that well, so let's do managed trade, that's going to work. We're going to put percentages on everything. Well, about two years ago, everybody said "the dollar," the U.S. industry said "the dollar." Just imagine if we were sitting here two years ago and Mr. Yachi were nice enough to say, "We will let you put a 40 percent tariff on all goods coming in from Japan into the United States. A 40 percent tariff, we agree." That's really to some extent what has happened with respect to currency revaluation and vice versa in terms of goods going into Japan. But that didn't solve the problem. I think there's a tremendous temptation to get neat solutions in Washington, solutions which sound like they're going to do something when, in fact, they really will not.

[CARTELIZATION]

I'll just close by making a comment about managed trade. One of the programs that I managed was the President's steel program and about a year into my job managing that, the Japanese trade group in charge of steel came in and the head of that group said, "You know, there's a grave problem. The traditional market share of the Japanese in the United States is being worn away by the Koreans. We used to have a 5.5 percent share and now some of our traditional customers are being taken away by the Koreans and you have to do something about it."

The message is that to a large extent any country or company would like guaranteed market shares both in their own country and abroad. We can then all argue about traditional shares and historically tradi-

tional shares, but as Harry First and other people have said, what that will mean is cartelized trade and not economic advancement for both countries as a whole, so we have to remain wary of that kind of solution despite the fact that it seems to have a lot of syntactic certainty.

[BUSINESS INTERESTS]

MR. FIRST: I'd like to give a little sort of caution on always taking the prescription that we get from business people. I think that as trade negotiators it's probably inevitable and very difficult to resist this, but—and this goes to what Greg Mastel was saying—I don't think we should measure the utility of either the semiconductor approach, if we want to call it that, and the soda ash approach,³⁶ by what the industry tells us. No doubt the semiconductor industry is happier now than they were before. I mean, that makes sense; prices are higher. They're not happy, I don't think, with their share of Japan's domestic market, which I don't think has changed.

[COSTS OF MANAGED TRADE]

One of the problems, I think, with this sort of managed trade solution is the opportunity cost. It may mask the fact that the solutions lie elsewhere. To me the question to ask when the semiconductor people come in and complain about low prices is, "Why were the prices low and what is the economics of it? What are the market forces that are driving it?"

[NEED FOR ANTITRUST ENFORCEMENT]

On the soda ash side, I agree with Ira Wolf. I think we've sort of lost pressure there. I think there are still collusive practices in Japan which I think the private industry has trouble surfacing because it involves their own customers. So, perhaps somewhat facetiously I'd like to suggest we post people from our own antitrust agencies who don't seem to have much to do, over to the Fair Trade Commission and let's get some antitrust enforcement going. That's only partially facetious.

[IMPORTANCE OF SITE OF MANUFACTURING]

MR. MASTEL: Just two quick points. First addressing Mr. Haley's earlier comment about the relative value of goods, American goods manufactured here and American goods manufactured abroad.³⁷ Obviously, Nissan Tennessee should be considered an American car manufacturer. That's not a double standard. The problem I was pointing out is that for the most part, most of the U.S. businesses that have been successful in Japan have only been successful after they were forced to

36. For an explanation of these two approaches, see First, *supra* note 29.

37. See *supra* Mr. Haley's discussion at page 536.

move most of their production to Japan. And we do, as a nation, have to be concerned about where the manufacturing base is. When the manufacturing base moves abroad, so do the jobs associated with manufacturing, and those are generally high-paying, good-quality jobs. As a nation and as a matter of national policy, we do have to be concerned where the manufacturing actually takes place for that reason.

[CONSISTENCY OF TARGETS AND MARKETPLACE]

Quickly back over to the managed trade, targets approach, the first thing I'd like to point out is that I don't think targets necessarily must be called managed trade—you don't have to initially go that far, in other words. As Mr. Wolf was pointing out, results don't necessarily mean targets in all cases. You can use a results-oriented policy that doesn't set market share targets. Furthermore, a market share target doesn't necessarily mean that you abandon the marketplace. Instead, a marketplace target can be used as an indicator of whether or not barriers have been removed. In other words, if the U.S. has a 20 percent share of the semiconductor market everywhere else in the world, we can use that 20 percent share in the Japanese market as a bench mark to whether or not our negotiations to eliminate trade barriers are succeeding or not. And that's probably the most effective way to use targets.

[FAILURE OF PROCESS APPROACH]

Certainly I would agree we should pursue other options, all other options, before we go to the approach of using targets and results-oriented policy. What you have to keep in mind is we're already at that point. We've been using the process approach for 25 years and it has not succeeded by and large.

[NATURE OF "AMERICAN" PRODUCTS]

MR. WOLF: I have a bit of advice for Mr. Yachi. You used the wrong list for the \$25 billion dollars that we sell to Japan. It's not all agricultural items. There are many American companies producing in the U.S. who sell to Japan and sell successfully, not as many as there should be, and they don't sell as much as they should. But when you use your list of American successes in Japan, it only serves to enrage Americans for the reasons that we have already discussed here. Coca-Cola is a name, not a product that's being sold.

[TARGETS LESS OBJECTIONABLE]

MR. CALDER: It just occurs to me that the clarification that we've seen with regard to the results-oriented policies has been very helpful. The opposition that I think several of us have had was particularly to quantity-oriented policies, particularly if they are used as sort of a sole indicator and if they somehow become institutionalized. If monitoring

the results of Japanese policies is a subjective sort of thing, if the Congressional judgment is just one of many indicators, then I think it may well be useful, as one bench mark among many.

[NEED FOR SECTORAL ANALYSIS]

But it does strike me that at the same time it's important for us to broaden our analysis of sectoral trends, to look not only at results *per se*, but also to supplement that with deeper analysis of sector-specific policies on both sides of the Pacific, to understand both the concrete differences in policies with regard to particular sectors and the economic implications of those differences. In semiconductors, for example, the VLSI research cartel at some point obviously had long-run impact on subsequent trade patterns, since the U.S. failed to take similar support measures on behalf of our industry. The regional policies of Japan have likewise had impact on trade. Depreciation policies have had an impact. In all cases, these Japanese policies haven't been offset in the United States; if we had better understandings in both countries of these differences, I think that we would better appreciate where our problems lie.

[PROBLEM OF DISPLACED WORKERS]

MR. WOLF: A number of speakers have talked about the fact that growth in one sector in one part of the country does not satisfy the worker in another area of the country who has lost his job because of Japanese imports or imports from another country. This is an area where a proper social policy in the United States would go a long way to resolve the political problems of trade imbalances.

I work for a senator from West Virginia, and in West Virginia we have many thousands of unemployed coal miners. When I was talking to an official at MITI³⁸ about this one day, he couldn't understand what I was talking about. He couldn't understand how you could have an unemployed coal miner. Coal mines have closed, production levels have stayed the same, but with mechanization you produce the same with a third of the workers and, therefore, someone who had worked in coal and was laid off or fired was probably never going to get his job back. He was never going to be a coal miner again.

Japanese coal mines are now virtually shut down, but there are no unemployed coal miners in Japan. There are many former coal miners who are currently employed, as compared to West Virginia and Pennsylvania, where there are former coal miners who are now unemployed coal miners.

We are unable to retrain our work force. The private sector is totally unable to do it, and the public sector is unable to do. We have a textile bill that is proposed in every session of Congress to further restrict import of textiles. What is driving that? What's driving it is that

38. Ministry of International Trade and Industry.

we have many unemployed textile workers in the United States and we've been totally unable to move them, to retrain them, to get them into a productive life. They are sitting there, and they're unemployed. There are obvious political pressures.

The U.S. should not, perhaps, be out of the textile industry, but we should certainly be out of some sectors of the industry. Textile protection is a substitute for the totally inadequate welfare programs, reeducation programs, and retraining programs of the government for the last eight years.

[CALL FOR FINAL REMARKS]

PROFESSOR KOSCHMANN: I think we're getting to a point where we want to think about where we're going to end up and whether any of this is going to come together.

Maybe one thing that could be done is that the panel members should think about what sorts of concluding summaries, syntheses, parting shots, or whatever, they would like to make. I don't know if we'll have time to give everyone an opportunity to do that. And let me just bring up a couple of things that have been left out.

We haven't talked very much about macroeconomic coordination. Am I correct in thinking that this is relatively uncontroversial among the panelists? A number of things have emerged as controversial: market share targets, Super 301, and so on. Maybe we should focus on a couple of things that haven't received a lot of attention.

Mr. Yachi, do you have anything to say about the general problem of macroeconomic coordination?

[MACROECONOMIC COORDINATION]

MR. YACHI: So far there has been very good macroeconomic policy coordination among major industrial countries, and although the pace of discussion in the framework of Uruguay Round has not been so fast as had been expected, I think that encouraging cooperation and negotiation is steadily going on there. So far as those aspects are concerned, we could see no serious problem. Japan's contribution in those fields should be duly appreciated.

PROFESSOR KOSCHMANN: Does anyone have a kind of perspective on the whole here that they want to share with us?

[GAP BETWEEN POLITICS AND ECONOMICS]

MR. YACHI: After hearing the discussions, I think generally there's some gap between politics and the economy. The economy, particularly the international economy, will transcend borders and even nationalities. For instance, multilateral or multinational corporations engaged in overseas operation are now going to transfer their decision making

power to the regional center. European regional headquarters can decide their regional trade and commercial policy independently from their parent Tokyo headquarters. And the headquarters in Asia could make a decision without the permission of the headquarters in Tokyo. This kind of thing is happening on a global scale.

When you talk about the Nissan car produced in the UK, the UK government deems it a British car, because its local content is 70 percent. The French government, on the other hand, is saying that the local content should be more than 80 percent for the car to be an EC car. This is economically nonsense, particularly for consumers.

What I'm trying to say is we are still speaking in the terminology of the 19th century, or at best the terminology of the pre-war period: terminology based on sovereignty and nationalism. On the other hand, businessmen and consumers are not paying too much attention to the traditional political concept and I think this gap is getting bigger and bigger. We can see vividly this gap in the dichotomy between "Inside the Beltway" and other parts of the United States. And the problem which we are facing now is how to coordinate more concretely between politics and economics, how to make politics catch up with such economic developments. I think that's a serious problem now, and I hope that this kind of thing will be discussed among the panelists present here in the future.

[U.S. PROBLEMS WITH JAPAN NOT UNIQUE]

MR. WOLF: I'd like to conclude by repeating something I mentioned in my initial presentation. We are not dealing with a U.S. versus Japan problem. We are dealing with issues concerning Japan where that concern is shared throughout the world. Japan has, thus far, failed to address those issues. Japan, to play an honored role in the world community, to play a leadership role in the world community, simply must address those problems, not just on the bilateral basis with the United States, but on a bilateral basis with dozens of other countries.

[IMPORTANCE OF ACADEMIC ANALYSIS]

MR. CALDER: I would just like to say one last thing about the relationship of academic analysis to an understanding of the policy issues we are discussing. Not simply academic analysis but analysis more generally. It seems to me that we have a range of tremendously tangled, tremendously important, long-range issues here and I share the frustration that several of us have with the tension between ideal long-range solutions and the immediacy with which these problems are pressing upon us, an immediacy which pushes us toward less desirable alternatives.

Of course, we can't as easily deal with immediate issues as with the alternatives—semiconductors is a clear illustration of that. But one thing that we can do that may be of use for the long run is generating more comparative public policy studies or integrated analysis of both

sector-specific industrial developments and their broader political context. We used to have a U.S.-Japan high-tech working group that dealt in detail with sectoral issues. Revival of the sort of analysis that looks far to the future, that looks at how sectors are evolving and how policies impact on them is important. I think we need some new early-warning mechanisms.

PROFESSOR KOSCHMANN: Why don't we at this point open up the floor to those members of the audience who might have some questions.

[RELATIONSHIP BETWEEN BILATERALISM AND MULTILATERALISM]

MR. PUNKE:³⁹ The panelists have spent a lot of time discussing the potential elements of a U.S.-Japan bilateral accord. I wonder if anyone on the panel believes that a bilateral approach to U.S.-Japanese trade relations undermines the broader multilateral process. In other words, if we start cutting bilateral deals, will we destroy the GATT process?

MR. WOLF: A free trade agreement negotiated bilaterally might, but if you are talking about the kinds of bilateral negotiations we've had in the past on specific issues, no. For the most part they don't violate the GATT rules or ongoing GATT negotiations.

MR. KAPLAN: I think that's an important and interesting question. I think the GATT to some extent is the least common denominator and many countries have entered into customs unions or free trade areas or something with other countries and that has not harmed the GATT insofar as those agreements are consistent with the GATT. I don't think it harms the GATT and insofar as there are negotiations where there are special problems between two trading partners, like on semiconductors or agricultural negotiations with the Europeans; there's nothing inconsistent or harmful about doing that.

I do think there does seem to be a Balkanization of trading going on right now, more than at any time in recent memory. There's a problem of Europe '92, people wonder whether that means Europeans are going to try to concentrate, at least for the foreseeable future, on their internal trading and keep other people backed out. The U.S.-Canada free trade agreement to some extent was a response to that. And then you have the problem of a U.S.-Japan free trade agreement. I think if we went that far there could really seriously be an undermining of the concept of most favored nation treatment and everybody would be lining up with "allies."

It's a matter of degree to some extent, but if we really start Balkanizing and forming special alliances over time, I think that can be problematic.

39. Michael Punke, Editor-in-Chief, *Cornell International Law Journal*.

MR. BARCELÓ:⁴⁰ Let me start with a point of view and perhaps we can pursue it with respect to one or two issues. The point of view is that multilateralism and free market forces should be the touchstone of foreign trade policy. The notion that we have a problem with Japan because we have a persistent bilateral current account deficit with Japan doesn't make any sense. I think the point that Allan Wallis made last night that in his personal finances he runs a lot of the bilateral deficits with a great many people, but only a few bilateral surpluses,⁴¹ is very telling.

Arguments for market access—if they mean guaranteed market share in bilateral trade—seem to me to lead to quite a mess down the line if that's what we were to start pushing. Arguments for free trade agreements—bilateral free trade agreements—also don't seem wise to me unless they are intended to be a first step toward freer trade at the multilateral level—which is one of the ways the U.S.-Canada Free Trade Agreement was promoted in this country. Such an agreement makes sense if we think of it as a showcase of how we can achieve freer trade with a friend, a neighbor, so that we can build from there to a multilateral framework. If that's what we are thinking about doing, fine.

If we did that with Japan and then moved to the multilateral framework in GATT with any advances toward freer trade we obtained, that would seem to me to be fine. So our ultimate goal should be freer trade at the multilateral level.

Now, to pursue this perspective in the direction of one or two issues. The bilateral trade deficit with Japan has been asserted to be the problem. I say it's not the problem. If the U.S. has a trade deficit problem, then it has a trade deficit problem multilaterally. And if it has such a problem, the solution is the price of the dollar, the exchange rate. Now, why isn't that the answer? Let market forces drive the dollar to the point to which it has to be driven for our trade to balance if we think it's a problem. Technically, we're in balance right now, as Allan Wallis pointed out.

Every country is in balance all the time. If market forces begin to move in a way that requires us to run less of a current account deficit—which is only part of the overall balance—then we will be forced to buy less from other countries. The dollar will go down further. If Japan is selling too much to other countries, the yen has to appreciate until Japanese products get so expensive that countries start buying fewer of them world wide. If we were running a current account surplus world wide, we wouldn't care about a bilateral deficit. Why isn't the proper perspective multilateral rather than bilateral?

MR. MASTEL: I would agree with you that the multilateral system should be the touchstone of trade policy. The problem is that as a practical matter it cannot be our only tool and it never has been and in all

40. John J. Barceló III, A. Robert Noll Professor of Law, Cornell Law School.

41. Wallis, *supra* note 2.

probability never will be. We've always found it necessary to negotiate bilaterally with other nations to resolve certain bilateral trade frictions.

We can do that in a way that doesn't undermine the multilateral system at all, for example, as we did in the beef and citrus agreement with Japan. We conducted an extensive bilateral negotiation, but the result was an agreement to liberalize on a most favored nation basis, which means that all the nations of the world trading system would have access. The multilateral system should be our touchstone, but it can't be our only tool.

Further, concerning your point about bilateral deficits not mattering. In theory, you're right. The problem is that Japan is such a big part of the world economy and such a large chunk of our trade deficit that it simply is impossible for us to have multilateral balance and not have balance or at least reduce the trade deficit with Japan. It's the second largest economy in the world. It can't be running a \$100 billion dollar surplus every year and if it is we won't be immune from the effects.

MR. BARCELÓ: What consequences are going to follow from that, that will be detrimental? We've been running a current account trade deficit for several years.

MR. MASTEL: Twenty-four years.

MR. BARCELÓ: What then is the consequent problem that that leads to?

MR. MASTEL: There are two problems. The first is that although the capital account and the current account do balance, that doesn't mean the trade deficit is not a problem. As a practical matter, what you're talking about is happening every day with Japan. We're buying Japanese products and the Japanese are buying treasury bills or otherwise investing in the U.S. economy, so the money is coming back, but the money is not coming back for free. You have to pay debt service on the money that Japanese invest in the United States.

MR. BARCELÓ: Let me interject a point right there, if I may. We have to pay debt service to anybody who buys T-bills, don't we?

MR. MASTEL: Sure. But there's a difference if the debt service stays in the United States or if it moves off our shores. When it moves off shore the benefits don't stay within the United States. Let me explain.

As our trade deficit has built up year after year, the foreign debt has built up year after year; in macroeconomic terms we've been borrowing money from abroad to purchase goods from abroad. The problem with that approach is that we have to pay that debt off and we have to pay debt service on it. By the mid-1990s the debt will reach about a trillion dollars and the debt service that we will be required to pay on that debt could reduce the U.S. standard of living by 1 or 2 percent.

In global terms that doesn't matter, but when you're looking at it from a perspective of a single nation it can have a great effect on what the standard of living in that nation is. That's why it's important.

MR. BARCELÓ: What seems to me to be important is the relationship between the GNP and the debt service. I cannot see why it matters who owns this debt, Japanese, Americans, or anybody else. Are we able as a government to carry the level of government debt? That seems to be the important issue. As I say, our perspective should be multilateral and global.

MR. GARFINKEL:⁴² This concludes the symposium. I'd like to thank the audience for its valuable participation. I'd like to thank the Cornell Law School, Dean Osgood, Linda Majeroni and Kathleen Rourke. I'd also like to thank the *International Law Journal* staff for making this weekend possible. But mostly I'd like to thank the moderators and the participants for a wonderfully enjoyable, enlightening, and stimulating weekend. Thank you very much.

PROFESSOR KOSCHMANN: You took the words right out of my mouth.

42. Neil B. Garfinkel, Symposium Editor, *Cornell International Law Journal*.